IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8984 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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G.S.R.T. CORPORATION

Versus

GOVINDBHAI THAKERSHI THAKKAR

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Appearance:

1. Special Civil Application No. 8984 of 1990

MR HARDIK C RAWAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2002

ORAL JUDGEMENT

#. The petitioner - Corporation has challenged the award passed by the Labour Court, Rajkot dated 9.7.1990 in Reference (LCR) No.952/84. By the impunged award, the Labour Court set aside the order of dismissal passed by

the disciplinary authority against the respondent workman and the respondent workman was ordered to be reinstated in service with full back wages.

#. The respondent workman was serving as Conductor. While he was on duty as conductor, on 26.12.1982 between Rapar and Banbadka, the bus was checked and the Checking Officer reported certain irregularities committed by the said workman. Ultimately, the workman was subjected to the chargesheet and ultimately, he was dismissed from service. The said dismissal order was challenged by the workman by raising the aforesaid industrial dispute.

#. The Labour Court set aside the said dismissal order and the petitioner Corporation was directed to reinstate the concerned workman with full back wages. The Labour Court came to the conclusion that the Corporation has not led any evidence to satisfy the Court that the inquiry was held properly. Being aggrieved by the said order, the Corporation has filed this petition. It is not in dispute that, subsequently, the petitioner Corporation has already complied with the order of the Labour Court by reinstating the aforesaid workman.

#. The respondent workman was subjected to the departmental proceedings on the alleged misconduct of not issuing tickets to the passengers. It is required to be noted that the Corporation has also produced the default card at Annexure-C - page 18 which clearly shows that the workman was found to have indulged in similar type of misconduct even in the past. Considering the aforesaid aspect of the matter, learned advocate for the workman has fairly conceded that, he has no objection, if some punishment is inflicted on the respondent workman.

#. Under the circumstances, in my view, this is not a case in which the concerned workman should be allowed to go scot free without any punishment order. In the facts and circumstances of the case, even though, the order or reinstatement is confirmed, the respondent will be subjected to the penalty of withholding of two increments with future effect. This Court while admitting this petition, by way of interim order, has awarded only 50% back wages. In my view, the order of the Labour Court is also required to be modified as regards the payment of back wages and he will be entitled to only 50% back wages instead of full back wages awarded by the Labour Court. Accordingly, the respondent workman will be entitled to reinstatement with 50% back wages only and over and above the same, he will be subjected to the penalty of withholding of two increments with future effect. The

order of the Labour Court is accordingly modified to the aforesaid extent. The petition is accordingly partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)